

Serial No. 10/660,690

Docket No. K-0008REI

Amendment dated February 22, 2007

Reply to Office Action of August 23, 2006

REMARKS/ARGUMENTS

Claims 1-48 are pending in this application. By this Amendment, claims 1, 7, 22, and 35 are amended, and claims 43-48 are added.

The listing of claims is believed to be in proper format under MPEP rules for reissue. However, the undersigned has discovered from past experience that amendment format differs based on Art Units. Hence, attached herewith is an Appendix listing the claims based on regular patent prosecution for the Examiner's convenience.

Amendment to claim 1 can be found, for example, in Figure 18 in conjunction with the specification, and amendments to claim 7 can be found, for example, in the Office Action, and Figure 20.

New claim 22 to has been amended to delete "a cell being formed near an intersection of a data electrode and a row electrode" and the recitation "the row electrode being divided" is changed to -a plurality of row electrodes being divided--. Further, the recitation --, and wherein a first row electrode of the first group and a first row electrode of the second group comprise a pair of electrodes, and a cell is provided at each crossing of each address electrode with the pair of electrodes—is inserted in claims 22 and 35. Further, claim 35 has been amended to "write and erase" to -write or erase--, and delete the term "while". Support of such a recitation can be found in Figure 7. Support for new claims 43 and 46 can be found in Figures 13-17 and 20 in

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conjunction with the specification, and support for new claims 44-45 and 47-48 can be found in Figure 7 in conjunction with the specification.

The Patent Office indicates that the oath/declaration is defective, and as such, the claims are subject to a restriction requirement, and claims 1-42 stand rejected as being based upon a defective reissue oath under 35 USC 251. Reconsideration is respectfully requested since the issue of restriction requirement and a defective oath/declaration are separate issues. Further, the basis for the defective oath/declaration is erroneous.

As the Patent Office may be aware, the criteria for making a restriction requirement in a reissue application between the newly added claims and the original claims are the same as that applied in a non-reissue application. See MPEP 1450. Since the Patent Office believes that devices claims are separate and distinct inventions, original method claims 1-7 and new method claims 22-24 and 35-42 have been constructively elected, and new claims 8-21 and 25-34 are withdrawn. However, it is respectfully submitted that although claims 17-21 and 25-34 are device claims, new claims 8-16 are method claims. Based on the reasoning set forth in the Office Action, method claims 8-16 should necessarily be examined with method claims 1-7, 22-24 and 35-42. Examination and reconsideration is respectfully requested.

Reconsideration of the oath/declaration is also respectfully requested. Contrary to the logic presented in the Office Action, the restriction requirement supports the error. As indicated MPEP 1412.03, which discusses broadening reissue claims, a claim which reads on something

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which the original claims do not is a broadened claim. A claim would be considered a broadening claim if the patent owner would be able to sue any party for infringement who previously could not have been sued for infringement. Thus, where the original patent claims only the process, and the reissue application adds (for the first time) product claims, the scope of the claims has been broadened since a party could not be sued for infringement of the product based on the claims of the original patent. Hence, new apparatus claims 17-21 and 25-34 supports the at least one error in the oath/declaration.

Further, the Patent Office analysis that claim 8 is narrower is incorrect. Claim 8 is broader in the aspect that it does not recite "simultaneous" and "synchronization." As the Patent Office may be aware, a broadened reissue claim is a claim which enlarges the scope of the claims of the patent, i.e., a claim which is greater in scope than each and every claim of the original patent. A claim of a reissue application enlarges the scope of the claims of the patent if it is broader in at least one respect, even though it may be narrower in other respects. Again, see MPEP 1412.03. Hence, claim 8 is broader, and supports the error.

In view of the above, the oath/declaration is not defective, and reconsideration of the rejection under 35 USC 251 is respectfully requested.

Claim 7 stand rejected under 35 U.S.C. §112, first paragraph. Based on the comments provided in the Office Action, claim 7 has been amended. Withdrawal of this rejection is respectfully requested.

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Claims 1-3, 22-24 and 35 stand rejected under 35 U.S.C. §102(b) over Saegusa (US Patent No. 5,475,448). Further, claims 36-42 are rejected for the same reasons under 35 U.S.C. §102(b). This rejection is respectfully traversed.

Claim 1 recites no scan pulses being applied to the row electrodes of the second group during the given time period. As illustrated in Figure 2 of Saegusa, scan pulses are necessarily applied to the odd and even rows to support the light emission (hatched area). See also column 3, lines 33-56, of Saegusa. Hence, Saegusa fails to disclose or teach all the claim features, and the combination thereof, as recited in claim 1.

Further, Saegusa cannot disclose or teach the features and the combination thereof, as recited in claims 22 and 35. For example, Saegusa fails to disclose or teach a first row electrode of the first group and a first row electrode of the second group comprise a pair of electrodes, and a cell is provided at each crossing of each address electrode with the pair of electrodes.

Saegusa does not explicitly disclose the structure of the cell. However, based the interlaced scanning method (see column 4, lines 13-19) in conjunction with JP Laid Open 4-195087 (cited at column 1, line 17), Saegusa cannot disclose the features and the combination thereof of claims 22 and 35. As shown in the attached appendix B, JP Laid Open 4-195087 correspond to US Patent No. 5,317,334 to Sano, which was cited during the prosecution of the original patent. As described at column 5, line 40 to column 6, line 4, of Sano, interlace scanning is used in 2-electrode cell structure illustrate in Figure 9. Hence, the cell structure of Saegusa

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corresponds to a 2-electrode cell structure, and cannot disclose or teach the features recited in claims 22 and 35.

It is respectfully submitted that Saegusa cannot disclose or teach all the claimed features, and withdrawal of Section 102 rejection is respectfully requested.

Claims 5 and 6 stand rejected under 35 U.S.C. §103(a) over Saegusa. This rejection is respectfully traversed.

Although the undersign reserve the right to challenge the conclusion of obviousness set forth in the Office Action, Saegusa alone cannot disclose or teach the features found lacking in the Section 102 rejection, as set forth above. Hence, withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, **Daniel Y.J. Kim**, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this,

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concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,

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